

CHAPTER 5

TYPE 2 CATEGORICAL EXCLUSIONS

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5. TYPE 2 CATEGORICAL EXCLUSIONS

5-1 OVERVIEW

A Categorical Exclusion (CE) is a project or a category of actions which do not individually or cumulatively have a significant environmental impact, and are excluded from the requirement to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). Categorical exclusions as defined in **40 Code of Federal Regulations (CFR) 1508.4** and **23 CFR 771.115** prescribe the level of documentation required to comply with the **National Environmental Policy Act (NEPA) of 1969**, as amended. See **Part 1, Chapter 2, Environmental Class of Action Determination** for more information on Class of Action (COA) determinations.

A Type 2 CE is one of three categorical exclusions agreed upon by Florida Department of Transportation (FDOT) and Federal Highway Administration (FHWA). Type 2 CEs require additional documentation to support the determination that the project is a CE. The decision requires consultation with and approval from FHWA. Type 2 CEs also require a higher level of public involvement, and may require a public hearing as described in **Section 339.155 (6), Florida Statutes (F.S.)** and as outlined in **Part 1, Chapter 11, Public Involvement**.

Projects that qualify for screening are evaluated through the Environmental Screening Tool (EST) (see **Part 1, Chapter 2, Environmental Class of Action Determination** for a list of qualifying projects) and require an Advance Notification (**Part 1, Chapter 3, Advance Notification**). A Type 2 CE COA is determined by the FDOT and FHWA at the completion of the Programming Screen evaluation. If a project does not qualify as a Type 1 CE or Programmatic Categorical Exclusion (PCE), and is not required to be screened through the EST, it can be processed using the Minor Categorical Exclusion (MiCE) process which may in some cases result in a Type 2 CE determination (see **Part 1, Chapter 2, Environmental Class of Action Determination**).

The Type 2 CE Environmental Document must show that there are no significant impacts resulting from the proposed action and fully demonstrate that the project meets the criteria of **23 CFR 771.117(a)**. For Type 2 CE projects, the level of detail required to reach these conclusions is dependent upon the complexity of the project and the significance of environmental impacts of the proposed action. The Environmental Document for a Type 2 CE (also referred to as Type 2 CE documentation) includes the **Type 2 Categorical Exclusion Determination Form, Preliminary Engineering Report (PER)**, and if applicable, the public hearing transcript. Guidance on completing the **Type 2 Categorical Exclusion Determination Form** is in **Section 5-2.2.1** and guidance on preparing a **PER** is provided in **Part 1, Chapter 4, Project Development Process and Engineering Considerations**. Other documentation may need to be submitted to FHWA as discussed in **Section 5-2.3**.

Before FHWA can approve a Type 2 CE, transportation planning requirements must be met and documented in the **Type 2 Categorical Exclusion Determination Form (Section 5-2.2.1)**. FHWA approval of the Type 2 CE results in Location and Design Concept Acceptance (LDCA), allowing the project to proceed to final design. This chapter outlines the required processing and documentation for Type 2 CE projects (**Figure 5.1**).

5-2 PROCEDURE

The environmental documentation for Type 2 CEs is the same regardless of whether the project is screened through the EST, or processed using the MiCE process. For screened projects, the scoping comments contained in the **Final Programming Screen Summary Report (Chapter 5, Programming Phase** of FDOT's **Efficient Transportation Decision Making (ETDM) Planning and Programming Manual**) are used in the preparation of the Environmental Document. Issues raised by the Environmental Technical Advisory Team (ETAT) must be addressed in the Type 2 CE documentation. For projects which were not screened through the EST, the District is responsible for gathering enough information to scope the project and coordinating with FHWA and any other applicable agencies according to the MiCE process as outlined in **Part 1, Chapter 2, Environmental Class of Action Determination**.

A Type 2 CE does not typically require consideration of multiple build alternatives during the screening process, but in some situations the impacts to issues or resources may result in the need to consider additional alternatives during the Project Development and Environment (PD&E) Study. This should not preclude a District from considering minor shifts in the alignment during PD&E.

During the PD&E Study, all necessary engineering and environmental work is performed and impacts are evaluated to verify that the initial COA determination as a Type 2 CE remains valid. If, during this effort, a significant impact is identified, coordination will need to occur with FHWA to revise the COA determination.

5-2.1 Transportation Planning Requirements

Before FHWA can provide LDCA, the proposed project, including logical termini, as defined in the Environmental Document must meet the Planning Requirements for **NEPA** Approval from the **Supplement to January 28, 2008, "Transportation Planning Requirements and Their Relationship to NEPA Process Completion", February 9, 2011** (revised by FHWA April 7, 2011). The intent is to advance projects derived from transportation plans and clearly describe the steps towards implementation as described in those plans. Complete the Project Planning Consistency table on the **Type 2 Categorical Exclusion Determination Form** to address these requirements (see instructions in **Section 5-2.2.1**).

5-2.2 Impact Evaluation

For Type 2 CEs, documentation must be prepared to address the topical categories contained in the **Type 2 Categorical Exclusion Determination Form** and demonstrate the proposed project has no significant direct, indirect, or cumulative impacts. The purpose of this form is to provide focused documentation. The issues/resources contained in **Block 6** of the form must be addressed using pertinent chapters of the **PD&E Manual** to satisfy applicable federal and state environmental laws, regulations, and executive orders. The analysis should be focused to the relevant issues and those requiring findings. Topics must address project impacts and mitigation as required by the referenced **PD&E Manual** Chapters. As appropriate for each topic, the evaluation and support documentation should include the necessary standard statements required by FHWA to show compliance with FHWA policy. Impact evaluation material should be summarized and appended to the form in the order listed.

5-2.2.1 Procedures for Completion of Type 2 Categorical Exclusion Determination Form

This section outlines the instructions for completing a **Type 2 Categorical Exclusion Determination Form (Figure 5.2)**. The descriptions of how to address the topical categories can also be used as guidance by the District when preparing summary degrees of effect in the EST (see **ETDM Planning and Programming Manual**). Each block must be completed, as appropriate.

Block 1. General Information:

Provide a list of the county(ies) involved; project name or title (including bridge number(s), if appropriate); project limits (as agreed upon by FHWA); project numbers [ETDM Number (if applicable), Financial Management Number, and Federal-aid Project Number], and attach and reference a project location map.

Block 2. Project Purpose and Need:

A. Purpose and Need:

Briefly describe the purpose, location, length, logical termini, etc. of the project. Identify and describe the transportation need(s) the purpose is intended to satisfy (e.g., provide system continuity, alleviate traffic congestion, and/or correct safety or roadway deficiencies). If the project was screened through the EST, update the purpose and need, as appropriate to reflect current project conditions. See **Part 2 Chapter 5, Purpose of and Need for Action** for detailed guidance on preparing the purpose and need.

B. Proposed Improvements:

Briefly describe the proposed action and typical section(s). Use appropriate engineering detail to show the number of lanes and their width, major structures, proposed capacity and safety improvements, estimated right-of-way to be acquired, and construction year (if available).

This section must also include summary engineering detail required to address project impacts to comply with other applicable federal and state environmental laws, regulations, and executive orders, and discuss required avoidance alternatives, measures to minimize harm, and the incorporation of mitigation strategies into the project design. Sufficient detail should be provided to support the findings.

C. Project Planning Consistency:

The planning consistency table must be completed prior to submittal to FHWA for LDCA to verify that a project meets the planning requirements in **23 CFR 450**. The appropriate Long Range Transportation Plan (LRTP), Cost Feasible Plan (CFP) LRTP, Transportation Improvement Plan (TIP), and current State Transportation Improvement Plan (STIP) pages should be submitted to FHWA with this determination form. For future phases (e.g., right-of-way or design, and construction) not currently shown on the referenced plans, this form should also document planned steps towards implementation, including the anticipated fiscal years. This should be coordinated with appropriate District Planning staff and may need to be documented in the appropriate plans as well.

To address LRTP consistency for Type 2 CE projects that were not screened, coordinate with District planning staff and verify that the project is represented in the LRTP summary sheet (e.g., general sidewalk, pedestrian improvement, and safety projects), which shows projects that are not individually listed in the LRTP. Include a copy of the sheet with the determination form.

Reporting should essentially be the same for projects with segmented implementation, with each segment added to the table. It is important to note that when the project is going to be divided into constructible segments, these segments should be described in the table. For example, if the project is 15 miles long and the first constructible segment is 5 miles, then the table should clearly describe the other segments. It is not sufficient to simply state that the remaining 10 miles may be segmented at some point in the future. For additional clarity, a map showing segmentation may also be included with the form. Again, it is important to identify the steps towards implementation of the entire project.

Block 3. Class of Action:

Based on the information and associated analysis in Block 6 of this form, FDOT and FHWA determine whether a project fulfills the criteria for a CE. To complete this section, mark an "X" in the box for other actions, which were completed on line 3b. In

line 3c, after consultation with FHWA, mark the appropriate box regarding the status of the public hearing and, if applicable, project LDCA. On line 3d, mark an "X" for the appropriate cooperating agency, based on early coordination with FHWA. Cooperating agencies are determined following the procedures in **40 CFR 1500 et seq.** (Council on Environmental Quality Regulations) and associated FHWA guidance. If there are no cooperating agencies, mark "None" with an X.

Block 4. Reviewers' Signatures:

The FDOT Project Manager and Environmental Administrator or designee must sign and date the review block.

Block 5. FHWA Concurrence:

The FHWA Division Administrator or designee must sign and date this block to concur with the recommendation(s) in Block 3.

Block 6. Impact Evaluation:

The analyst uses the results of the environmental evaluation, knowledge of the project area, and input received through agencies and the public, to complete the form. An "X" is placed in the appropriate column, indicating the impact level as significant, not significant, none, or no involvement. Documentation must be provided by the analyst in the Basis for Decision column and supplemented with attachments, if necessary, to substantiate the impact determination.

For clarity, the following definitions are provided to assist in determining the magnitude of the impact of the project on the affected issue or resource. When making these determinations, consider direct, indirect, and cumulative impacts. See **Part 1, Chapter 2, Environmental Class of Action Determination** for guidance on significance:

- a. If the impact is significant per **40 CFR 1508.27**, mark the column "Sig" with an "X". Coordinate with FHWA if this determination is made because projects with significant impacts are not categorical exclusions.
- b. If the impact is not significant, mark the column "Not Sig" with an "X". Not significant means the project has an impact on an environmental issue/resource which may range in level of magnitude from minimal to substantial.
- c. If the impact is none, mark the column "None" with an "X". None means the project has been evaluated for an issue or resource and the issue exists, but there is no impact.

- d. If the issue/resource is not involved, mark the column "NoInv" with an "X". No involvement means the environmental issue/resource in question is not part of or in any way involved with the project. If a topical category is marked in the "NoInv" column, no further documentation is needed.

The following topical categories must be addressed as appropriate:

A. Social & Economic: Consider effects on the community including:

- 1. Land Use Changes:** Is there any potential for the project to induce secondary development or change existing land use patterns? For guidance see **Part 2, Chapter 9, Sociocultural Effects Evaluation**.
- 2. Community Cohesion:** Is there any potential for splitting or isolating neighborhoods, changing travel patterns, affecting access or parking, and other variables of local community concern? For guidance see **Part 2, Chapter 9, Sociocultural Effects Evaluation**.
- 3. Relocation Potential:** What is the relocation potential? Estimate the number and type of relocatees (residents, tenants, businesses, institutions or community facilities), and consider the relocation impact to groups protected by nondiscrimination laws. For guidance see **Part 2, Chapter 9, Sociocultural Effects Evaluation**.
- 4. Community Services:** How will the proposed action affect school districts and churches and community services and facilities? Identify any such facilities by name and any potential involvement (i.e., First Street Baptist Church, Big Bend Elementary School, First Street Hospital, Willow Street Fire Station). For guidance see **Part 2, Chapter 9, Sociocultural Effects Evaluation**.
- 5. Nondiscrimination Considerations:** Are there potential impacts to distinct ethnic, elderly, minority, handicapped, or other groups? Is there a likelihood of disproportionate impacts? Regardless of the impact level identified, documentation should always contain the standard statement and, if applicable, a brief summary of the assessment. For guidance and standard statement see **Part 2, Chapter 9, Sociocultural Effects Evaluation**.
- 6. Controversy Potential:** Are there any areas of controversy resulting directly or indirectly from the project? Is there a likelihood of disproportionate impacts? Reference results of public hearings or any other public involvement. If the project was screened, reference ETAT issue resolution.
- 7. Scenic Highways:** Identify, by formal name, all designated (or candidate) Scenic Highways within the project study area and consider their involvement with the project. For guidance see **Part 2, Chapter 29, Scenic Highways**.

8. **Farmlands:** Is there any involvement with Farmlands? For guidance see **Part 2, Chapter 28, Farmlands**.

B. **Cultural:** Are there potential impacts to any **Section 4(f)**, historical or archaeological sites (**Section 106** of the **National Historic Preservation Act** and implementing regulations)?

1. **Section 4(f):** Identify, by formal name, any existing or proposed **Section 4(f)** protected resources (i.e., parks, recreational areas, wildlife and waterfowl refuges, historic and archeological properties) within the project study area. On the appended sheet discuss any project-related impacts to these properties and specifically identify any right-of-way or other acquisition from these resources which may be required to complete the project. For guidance on determining **Section 4(f)** applicability, see **Part 2, Chapter 13, Section 4(f) Evaluations, Section 13-2.2 Determination of Section 4(f) Applicability**.

2. **Historic Sites and/or Districts:** Consider potential involvement with properties listed or eligible for listing on The **National Register of Historic Places**. Include findings and necessary approvals per **Part 2, Chapter 12, Archaeological and Historical Resources**. Also include the applicable standard statement. It should be noted that significant historic properties are also protected by **Section 4(f)** therefore, for additional guidance see **Part 2, Chapter 13, Section 4(f) Evaluations**.

3. **Archaeological Sites:** Consider potential involvement with properties eligible or listed on The **National Register of Historic Places**. Include findings and necessary approvals per **Part 2, Chapter 12, Archaeological and Historical Resources**. Also include the applicable standard statement. Archaeological sites that are significant primarily for the information they contain are not protected by **Section 4(f)**. **Section 4(f)**, however, does protect archaeological sites that are important for preservation in place. For additional guidance see **Part 2, Chapter 13, Section 4(f) Evaluations**.

4. **Recreation Areas:** Identify, by formal name, all recreation areas within the project study area. On the appended sheet discuss any project-related impacts to these properties and specifically identify any right-of-way or other acquisition from these resources which may be required to complete the project. For guidance see **Part 2, Chapter 13, Section 4(f) Evaluations**.

C. **Natural:**

1. **Wetlands:** Does the project involve wetlands? Identify the type of wetlands involved, their approximate acreage, and their overall functional value based on the Uniform Mitigation Assessment Methodology (UMAM), as appropriate. If wetlands are impacted, also include a brief discussion of proposed compensatory mitigation. The level of detail should be sufficient to clearly define wetland

involvement, describe interagency coordination, and finalize the findings. Regardless, a wetland finding needs to be included. See **Part 2, Chapter 18, Wetlands** for further guidance and standard statements.

2. **Aquatic Preserves:** Are there any Aquatic Preserves in the project area? Identify any Aquatic Preserves, by name, and potential involvement (i.e., water quality impacts, retention, right-of-way needs). For projects located in an Aquatic Preserve without impacts include the standard statement provided in **Part 2, Chapter 19, Aquatic Preserves**.
3. **Water Quality:** What is the potential for water quality impacts? Consider potential right-of-way needs for roadway and retention ponds. Conduct a qualitative evaluation of potential project involvement using the **Water Quality Impact Evaluation (WQIE) Checklist**, for all EST screened projects. Where a **WQIE** is required, include the standard statement provided in **Part 2, Chapter 20, Water Quality**.
4. **Outstanding Florida Waters:** Identify any Outstanding Florida Waters by name, and potential involvement (i.e., water quality impacts, retention, right-of-way needs). For guidance see **Part 2, Chapter 21, Outstanding Florida Waters**.
5. **Wild and Scenic Rivers:** Identify any Wild and Scenic River or one identified on the Nationwide Rivers Inventory by name, and its potential involvement. For projects involving rivers included on the Nationwide Rivers Inventory which have no impacts on the river, include the standard statement per **Part 2, Chapter 23, Wild and Scenic Rivers**.
6. **Floodplains:** Determine if the 100-year floodplain is involved with the project and the type of effect, if applicable. Identify if a regulatory floodway is involved and provide a finding, as applicable. See **Part 2, Chapter 24, Floodplains** for further guidance and standard statements.
7. **Coastal Zone Consistency:** Note if the project is consistent with the Coastal Zone Management Program. Include the standard statement provided in **Part 2, Chapter 25, Coastal Zone Consistency**. A Coastal Zone Consistency determination is only needed at this phase of the project if it was screened through the EST. Keep in mind the final Coastal Zone Consistency determination is not given until the project is permitted.
8. **Coastal Barrier Resources:** Consider access impacts to Coastal Barrier Resources protected under the **Coastal Barrier Resources Act (CBRA)** and **Governor's Executive Order 81-105**. For guidance see **Part 2, Chapter 26, Coastal Barrier Resources**.
9. **Wildlife and Habitat:** Are there any potential impacts to wildlife and habitat? Assess and consult for impacts as appropriate. For guidance see **Part 2,**

Chapter 27, Wildlife and Habitat Impacts. Provide a finding if one is necessary.

- 10. Essential Fish Habitat:** Are there any potential impacts to Essential Fish Habitat? Assess and consult for impacts as appropriate. Include the applicable standard statement per **Part 2, Chapter 11, Essential Fish Habitat.**

D. Physical:

- 1. Noise:** Is the consideration of noise impacts required under **23 CFR 772** or FDOT policy? Consider if implementation of the project will cause an increase in noise as a result of a qualitative review per **Part 2, Chapter 17, Noise.**
- 2. Air Quality:** Will the implementation of the project cause an impact on air quality? Consider the potential for impacts as appropriate, in accordance with procedures in **Part 2, Chapter 16, Air Quality Analysis.**
- 3. Construction:** Consider potential construction impacts relative to all topical categories and document, consistent with **Part 2, Chapter 30, Construction Impacts.**
- 4. Contamination:** **NEPA** requires the evaluation of this issue for impacts. If contamination is identified it must be documented with a description of how it will be addressed as the project advances. Determine the likelihood of contamination impacting the project, as appropriate, and include the applicable standard statement per **Part 2, Chapter 22, Contamination Impacts.**
- 5. Aesthetic Effects:** Consider aesthetic effects in accordance with procedures in **Part 2, Chapter 15, Visual Impacts/Aesthetics.**
- 6. Bicycles and Pedestrians:** Consider alternatives that accommodate bicycles and pedestrians and the aspect of providing reasonable alternatives for the public per **Part 2, Chapter 14, Pedestrian and Bicycle Facilities.**
- 7. Utilities and Railroads:** Discuss any involvement with utilities and/or rail systems. For guidance see **Part 2, Chapter 10, Utilities and Railroads.**
- 8. Navigation:** Consider any potential impacts to navigation by providing the following information which FHWA will use to make its determination under **23 CFR 650, Subpart H.** Pursuant to **23 CFR 650, Subpart H,** FHWA can determine that a project is exempt from a U.S. Coast Guard (USCG) permit whenever the proposed construction, reconstruction, rehabilitation, or replacement of the federally-aided or assisted project is over waters:

- a. Which are not used or are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and
- b. Which are not tidal; or
- c. If tidal, are used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

In order for FHWA to determine that a project is exempt from a USCG navigational permit, the District must provide the following information on the determination form:

- a. Three (3) photographs taken at the proposed bridge site: one looking upstream, one looking downstream, and one looking along the alignment centerline across the bridge site.
- b. Provide name of waterway including: (1) Mileage along waterway measured from mouth or confluence; or (2) Tributary of (name of river) at mile ____.
- c. Geographical location including: road number, City, County and State.
- d. Section, Township, and Range, if applicable.
- e. Whether waters are tidally influenced at proposed bridge site and the range of tide.
- f. Whether the waters are used to transport interstate or foreign commerce, and also indicate:
 - 1. If these waters are susceptible to use in their natural condition or by reasonable improvement as a means to support interstate or foreign commerce.
 - 2. If there are any planned waterway improvements to permit larger vessels to navigate based on coordination with U.S. Army Corps of Engineers (COE).
- g. Whether there are any natural or manmade obstructions, bridges, dams, weirs, etc., downstream or upstream.
 - 1. If obstructions exist, provide upstream/downstream location with relation to the proposed bridge.

2. Provide a photograph of the bridge from the waterway showing channel spans.
- h. Names and addresses/locations of marinas, marine repair facilities, public boat ramps, private piers/docks along waterway within a half- mile of site.
- i. Location map and plans (if available) for the proposed bridge, including intended or desired vertical clearances above mean high water and intended or desired mean low water and horizontal clearance normal to axis of the waterway.
- j. Description of the navigational clearances provided by the existing bridge(s).
- k. Description of waterway characteristics at the bridge site(s), including width at mean high and mean low water, depth at mean high and mean low water, and currents.
- l. Description of the type, size, and number of vessels using the waterway, and when applicable, the number of documented bridge openings required to serve waterborne traffic. This includes the vertical clearance requirement for the known tallest vessel using the waterway, a representative photograph of vessels using the waterway, and the length of the largest type vessel using the waterway. If the types or dimensions of vessels using the waterways are not known, coordinate with USCG to determine if that agency has any of this information and document the results of the coordination.
- m. Description of any bridge-related boating accidents.
- n. Description of the potential impacts of the project on navigation including effects during the construction period.
- o. The need for navigational lighting or signals or special notices to mariners for the proposed bridge and its construction activity.

If FHWA cannot determine that the project is exempt from a USCG permit, coordination with the USCG will be needed prior to approval of the Type 2 CE.

- E. Permits Required:** List all possible federal and state permits required by providing the name of the permitting agency, the name of the permit, and the permit status.

Block 7. Commitments and Recommendations:

Document any commitments made by the Department over the course of the project, per **Part 2, Chapter 32, Commitments and Recommendations**.

5-2.3 Documentation for Type 2 Categorical Exclusions

The Environmental Document for a Type 2 CE consists of the **Type 2 Categorical Exclusion Determination Form, PER**, and if applicable, the public hearing transcript. Guidance on completing a **PER** is provided in **Part 1, Chapter 4, Project Development Process and Engineering Considerations**. Documentation must be provided to substantiate the impact determinations of significant, not significant, or none. If analysis results in a finding of significant impact(s), coordinate with FHWA since the significance finding must be made by them.

If the project was screened through the EST, comments received from the ETAT should be addressed and a reference should be added to where the **Final Programming Screen Summary Report** can be found. It is not necessary, however, to attach the **Final Programming Screen Summary Report**. All relevant issues with the ETAT should be resolved and documented.

The Type 2 CE Environmental Document must demonstrate interagency coordination on respective issues and public involvement efforts to adequately support the conclusions reached in the COA. In addition, it must include all commitments and recommendations made throughout the PD&E Study. A summary of coordination and/or consultation efforts and results, which verify the finding, should be included on the form and any correspondence representing findings or concurrence should be attached.

Documentation supporting project planning consistency should be appended to the form. This includes applicable LRTP, TIP, and STIP pages. To address LRTP consistency for projects not qualifying for screening, verify that the project is represented in the LRTP summary sheet (e.g., general sidewalk projects, pedestrian improvement projects, safety) and include a copy of the sheet.

The proposed action may require other reports, such as, but not limited to, the **Noise Study Report, Air Quality Report, Wetland Evaluation Report, Conceptual Stage Relocation Plan**, and/or **Contamination Screening Evaluation Report**. These reports should not accompany the Type 2 CE submittal to FHWA, unless FHWA specifically requests them. The only exception to this is the public hearing transcript (including the summary and certification), which must be included when a public hearing is required for a project.

The administrative record should document environmental evaluations supporting coordination, consultations, and findings. The District must insure that proper documentation can be produced from the project file upon request by FHWA.

5-2.4 Processing Type 2 Categorical Exclusions

After completion of the Type 2 CE documentation and the Public Hearing (if required) the Department may then request LDCA from the FHWA Division Administrator.

The District submits the **Type 2 Categorical Exclusion Determination Form** (with attached consistency documentation), **PER**, and, if required, the public hearing transcript to the FHWA Division Administrator. The transmittal letter (**Figure 5.3**) submitted with the Type 2 CE documentation must contain:

1. SUBJECT with the County, ETDM Number (if applicable), Financial Management Number, Federal-Aid Project Number, common project name, road number, and termini.
2. Wording to the effect that: "Enclosed is the **Type 2 Categorical Exclusion Determination Form**, **PER**, and the public hearing transcript for the subject project. Upon review and approval of the Categorical Exclusion Class of Action determination, we request this project be granted Location and Design Concept Acceptance in accordance with **23 CFR 771**."

The FHWA Division Administrator or designee's signature on the **Type 2 Categorical Exclusion Determination Form** provides concurrence with the COA and LDCA. FHWA sends one (1) copy of the approved signature page to the District. The District publishes a notice of LDCA in the local newspaper; see **Part 1, Chapter 11, Public Involvement**. At this point, the project may proceed to the next phase.

The approved Type 2 CE documentation and any other associated documents are added to the project file. For projects that were screened, the approved Type 2 CE documentation and other technical reports as appropriate are submitted to the District ETDM Coordinator to be included as an attachment to the project record in the EST. The Project Manager also provides copies to the District Design Engineer for the subsequent final design phase.

For bridge projects requiring a USCG bridge permit, or for those where FHWA has made a bridge permit determination under **23 CFR 650, Subpart H**, a copy of the approved Type 2 CE documentation is sent to the USCG. For projects where there is **Section 404** permit involvement, the Type 2 CE documentation is sent to the COE.

5-2.5 Guidance on Limitation of Claims Notice

Section 6002(a) of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) [codified as **23 USC 139(1)**] includes a provision for limiting the time period for filing claims and seeking judicial review of permits, licenses, or approvals issued by federal agencies for a highway or public transportation capital project. The provision created a statute of limitations period of 180 days for filing a

challenge following publication of notice in the **Federal Register (FR)** of the agency action(s). **Moving Ahead for Progress in the 21st Century (MAP-21)** updated the statute of limitations period to 150 days.

There may be rare occasions when it may be necessary to file a statute of limitations notice for a Type 2 CE. In these situations, coordination between the District and the FHWA Division Office on the need for publication of a 150-day limitation notice under **23 USC 139 (1)** will be necessary. The determining factors in this decision will be the degree of controversy surrounding the project, the likelihood of litigation, and the anticipated time frames for advancing the project to maintain project schedules.

If the decision is made to publish a **Limitation of Claims Notice**, the District will still publish a notice in a local newspaper stating that LDCA has been approved by FHWA. At the same time, the District will submit to FHWA the project information needed to publish the notice in the **FR**. FHWA will then submit the notice to the **FR**. The 150-day limitation period begins upon the date of the publication of the notice in the **FR**.

There may be occasions when associated federal agency approvals (**Clean Water Act** permit, USCG permit, etc.) will be received at or around the same time as final **NEPA** approval. On those occasions, as part of the notice publication discussion, FHWA and FDOT will confer as to whether one combined notice should be published for the **NEPA** document and any associated federal agency actions. If other federal agency permits, licenses or approvals will be obtained at a later phase of the project, notice would be published at that time for the subsequent approvals if the need is agreed to between FHWA and the FDOT.

5-3 REFERENCES

1. Council on Environmental Quality, Executive Office of the President, 1978. Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act. Reprint 43 FR 55978-56007, 40 CFR Parts 1500-1508.
2. Federal Register, August 28, 1987, Volume 52, No. 167. "Part 771-Environmental Impact and Related Procedures", 23 CFR 771.
3. Florida Statutes, Section 339.155(6), "Procedures for Public Participation in Transportation Planning".
4. Florida Department of Transportation, Efficient Transportation Decision Making (ETDM) Planning and Programming Manual.
5. Federal Highway Administration, Supplement to January 28, 2008 "Transportation Planning Requirements and Their Relationship to NEPA Process Completion", February 9, 2011.

6. CFR Title 23, Part 450 (23 CFR 450) Planning Assistance and Standards.
7. State of Florida, Office of the Governor, Executive Order 81-105.1981.
8. Federal Register, 1987, Volume 52, No. 144. "Subpart H Navigational Clearances for Bridges", 23 CFR 650.
9. Memorandum, titled "Florida-Meeting with U.S. Coast Guard", from FHWA Highway Safety and Environmental Coordinator to FHWA Assistant Division Administrator (Copy to C. L. Irwin), September 2, 1988.
10. U.S. Department of Transportation, Federal Highway Administration, October 30, 1987. Guidance for Preparing and processing Environmental and Section 4(f) Documents, FHWA Technical Advisory T6640.8A.
11. FHWA and FTA "Agency Operating Agreement" signed by Thomas F. Barry, FDOT Secretary, James St. John, FHWA Division Administrator, and Jerry Franklin, FTA Regional Administrator, and executed on February 12, 2003.
12. Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Section 6002(a).
13. Moving Ahead for Progress in the 21st Century (MAP-21), Section 1308.
14. 23 United States Code 139(1).

5-4 HISTORY

01/31/2007

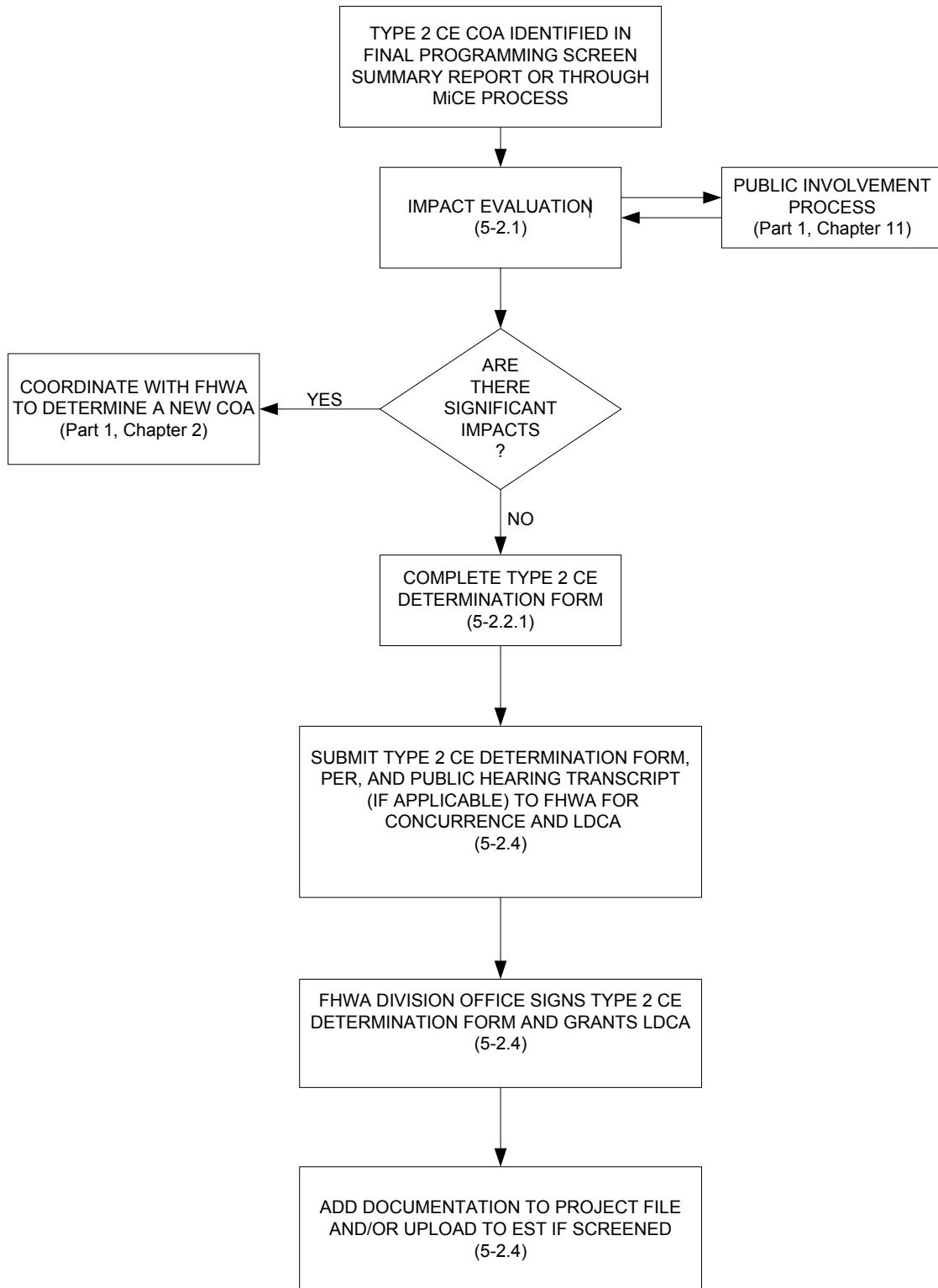


FIGURE 5.1 Type 2 Categorical Exclusion Process

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
TYPE 2 CATEGORICAL EXCLUSION DETERMINATION FORM

1. GENERAL INFORMATION

County: _____
 Project Name: _____
 Project Limits: _____
 Project Numbers: _____
 ETDM (if applicable) Financial Management Federal-Aid

2. PROJECT PURPOSE AND NEED

- a. Purpose and Need:
- b. Proposed Improvements:
- c. Project Planning Consistency: disregard providing historical details, instead focus on future phases of segments being advanced. If more than one segment is being advanced additional tables should be added.

Currently Adopted CFP-LRTP	COMMENTS				
Y/N	(If N, then provide detail on how implementation and fiscal constraint will be achieved)				
PHASE	Currently Approved TIP	Currently Approved STIP	TIP/STIP \$	TIP/STIP FY	COMMENTS
PE (Final Design)	Y/N	Y/N	\$		(If phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)
R/W	Y/N	Y/N	\$		(If phase completed, note as such otherwise provide comments describing status and activities needed to achieve consistency)
Construction	Y/N	Y/N	\$		(provide comments as appropriate describing status and activities needed to achieve consistency)

****Include pages from TIP/STIP/LRTP***

FIGURE 5.2 Type 2 Categorical Exclusion Determination Form

3. CLASS OF ACTION

a. Class of Action:

☐ Type 2 Categorical Exclusion

b. Other Actions:

☐ Section 4(f) Evaluation

☐ Section 106 Consultation

☐ Endangered Species Biological Assessment

c. Public Involvement:

1. ☐ A public hearing is not required, therefore, approval of this Type 2 Categorical Exclusion constitutes acceptance of the location and design concepts for this project.

2. ☐ A public hearing was held on (insert date of the hearing) and a transcript is included. Approval of this determination constitutes location and design concept acceptance for this project.

☐ An opportunity for a public hearing was afforded and a certification of opportunity is included. Approval of this determination constitutes acceptance of the location and design concepts for this project.

3. ☐ A public hearing will be held and the public hearing transcript will be provided at a later date. Approval of this determination DOES NOT constitute acceptance of the project's location and design concepts.

☐ An opportunity for a public hearing will be afforded and a certification of opportunity will be provided at a later date. Approval of this determination DOES NOT constitute acceptance of the project's location and design concepts.

d. Cooperating Agency: ☐ COE ☐ USCG ☐ FWS ☐ EPA ☐ NMFS ☐ NONE

4. REVIEWERS' SIGNATURES

FDOT Project Manager

___ / ___ / ___
Date

FDOT Environmental Administrator or Designee

___ / ___ / ___
Date

5. FHWA CONCURRENCE

(For) Division Administrator or Designee

___ / ___ / ___
Date

FIGURE 5.2 Type 2 Categorical Exclusion Determination Form

6. IMPACT EVALUATION

Topical Categories	Impact Determination*				Basis for Decision*
	Sig	Not Sig	None	Nolnv	
A. SOCIAL & ECONOMIC					
1. Land Use Changes	[]	[]	[]	[]	
2. Community Cohesion	[]	[]	[]	[]	
3. Relocation Potential	[]	[]	[]	[]	
4. Community Services	[]	[]	[]	[]	
5. Nondiscrimination Considerations	[]	[]	[]	[]	
6. Controversy Potential	[]	[]	[]	[]	
7. Scenic Highways	[]	[]	[]	[]	
8. Farmlands	[]	[]	[]	[]	
B. CULTURAL					
1. Section 4(f)	[]	[]	[]	[]	
2. Historic Sites/Districts	[]	[]	[]	[]	
3. Archaeological Sites	[]	[]	[]	[]	
4. Recreation Areas	[]	[]	[]	[]	
C. NATURAL					
1. Wetlands	[]	[]	[]	[]	
2. Aquatic Preserves	[]	[]	[]	[]	
3. Water Quality	[]	[]	[]	[]	
4. Outstanding FL Waters	[]	[]	[]	[]	
5. Wild and Scenic Rivers	[]	[]	[]	[]	
6. Floodplains	[]	[]	[]	[]	
7. Coastal Zone Consistency	[]	[]	[]	[]	
8. Coastal Barrier Resources	[]	[]	[]	[]	
9. Wildlife and Habitat	[]	[]	[]	[]	
10. Essential Fish Habitat	[]	[]	[]	[]	
D. PHYSICAL					
1. Noise	[]	[]	[]	[]	
2. Air Quality	[]	[]	[]	[]	
3. Construction	[]	[]	[]	[]	
4. Contamination	[]	[]	[]	[]	
5. Aesthetic Effects	[]	[]	[]	[]	
6. Bicycles and Pedestrians	[]	[]	[]	[]	
7. Utilities and Railroads	[]	[]	[]	[]	
8. Navigation	[]	[]	[]	[]	
a. [] FHWA has determined that a USCG Permit IS NOT required in accordance with 23 CFR 650, Subpart H.					
b. [] FHWA has determined that a USCG Permit IS required in accordance with 23 CFR 650, Subpart H.					

* **Impact Determination:** Sig = Significant; NotSig = Not significant; None = Issue present, no impact; Nolnv = Issue absent, no involvement. Basis of decision is documented in the referenced attachment(s).

E. PERMITS REQUIRED

7. COMMITMENTS AND RECOMMENDATIONS

FIGURE 5.2 Type 2 Categorical Exclusion Determination Form

(DATE)

Division Administrator
Federal Highway Administration
545 John Knox Road, Suite 200
Tallahassee, Florida 32303

Attention: District/Area Transportation Engineer

Dear Mr./Ms.

Subject: NAME OF PROJECT

ETDM No. (if applicable)
Financial Management No.
Federal-Aid Project No.
SR-XXX, From A to B
County, Zip Code

RE: Transmittal of Type 2 Categorical Exclusion for approval

Enclosed is the Type 2 Categorical Exclusion Determination Form and appropriate supporting documentation such as the Preliminary Engineering Report and the public hearing transcript (if applicable) for the public hearing held on (Date) for the subject project. Upon review and approval of the Type 2 Categorical Exclusion Class of Action determination, we request this project be granted Location and Design Concept Acceptance in accordance with **23 CFR 771**. Please acknowledge your concurrence with these findings by signing and dating the Type 2 Categorical Exclusion Determination Form and then returning a signed signature page for the project files.

Sincerely,

District Environmental Office

FIGURE 5.3 Project Transmittal Letter From the District to FHWA